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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/856,028	05/16/2001	Max Kossldorfer	12758-033001	2264
26161	7590	06/29/2005	EXAMINER	
FISH & RICHARDSON PC 225 FRANKLIN ST BOSTON, MA 02110			KADING, JOSHUA A	
			ART UNIT	PAPER NUMBER
			2661	

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/856,028

Applicant(s)

KOSSLDORFER, MAX

Examiner

Joshua Kading

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 5, 7 and 9-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5, 7 and 9-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Specification*

1. Applicant's specification is objected to because it fails to follow an appropriate and delineated layout with clearly marked sections. See MPEP § 608.01(a). Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 5, 7, and 9-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Applicant's Admitted Prior Art (AAPA).

Regarding claims 5 and 12, AAPA discloses, "a system for activating an intermediate interface of a telecommunication network, the system comprising:

a local exchange (*figure 1, element LE*); and

an access network for exchanging information with the local exchange over the intermediate interface of the telecommunication network (*figure 1, TKN is the network and the interface is VIF*);

the intermediate interface comprising a plurality of links a link comprising a plurality of transmission channels for exchanging information, the plurality of

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transmission channels comprising communication channels for exchanging communication information, at least one of the communication channels being part of a first protection group (*figure 1, VIF where each link is further shown in figure 2*);

wherein, at activation, the system:

establishes a primary communication path on a target communication channel in the first protection group (*figure 1, first CPI is a primary communication path, TP1 is the target channel, and PGI is the first protection group*);

allocates a communication path group to the target communication channel (*specification, page 5, lines 34-page 6, lines 1-4*), the communication path group being allocated based on messages exchanged via the primary communication path, the messages containing information for use in allocating communication path groups to transmission channels (*specification, page 6, lines 15-22 where the channel allocation is changed due to operator instruction, which is done through messaging and if it can be done during operation it can be done at activation*); and

releases communication paths in the first protection group for use in exchanging communication information, the communication paths being released after the communication path group is successfully allocated to the target communication channel (*specification, page 6, lines 19-22 whereby a standby channel becoming active or vice versa means the other channels/paths will be released*)."

Regarding claims 7 and 13, AAPA discloses, "wherein the intermediate interface is activated from a default state (*specification, page 8, lines 13-19*)."

Regarding claims 9 and 14, AAPA discloses, "wherein the primary communication path is established in a first communication channel to provide an operational protocol for communication between the local exchange and the access network, the first communication channel comprising the target communication channel (*figure 1 shows the connections/links in the network and the local exchange and figure 2 shows the underlying communication paths along the links of figure 1*)."

Regarding claims 10 and 15, AAPA discloses, "wherein the messages are exchanged via a protection protocol (*specification, page 4, lines 24-30*); and wherein the primary communication path comprises a protection path in the target communication channel, the protection path for use in exchanging the protection protocol (*figure 1, PP1 is the protection path and specification, page 4, lines 24-30*)."

Regarding claims 11 and 16, AAPA discloses, "allocating the remaining communication path group to a communication channel that is not in the first protection group, the remaining communication path group being allocated based on messages exchanged via the first protection group (*figure 2 and specification page 4, lines 24-30*); and releasing the remaining communication path group for use in exchanging communication information (*specification, page 6, lines 19-22 whereby a standby channel becoming active or vice versa means the other channels/paths will be released*)."

***Response to Arguments***

4. Applicant's arguments filed 28 March 2006 have been fully considered but they are not persuasive.

Applicant argues that the AAPA does not read on the claimed invention because it does not disclose allocating channels at activation through messaging. The examiner respectfully disagrees.

As noted in the rejection, AAPA fully discloses changing allocation of channels through the use of operator instructions. These instructions are interpreted to mean messages. And "during operation," as noted in the specification, is interpreted to encompass activation because activation is part of the broad term of operation of the system. Further, it should be noted that whether the operator instructions for allocation are sent during activation or at some other time is immaterial because if the messages can be sent during communication, for example, there is no reason that they can't be sent prior to communication.

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua Kading whose telephone number is (571) 272-3070. The examiner can normally be reached on M-F: 8:30AM-5PM.

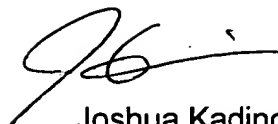
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on (571) 272-3126. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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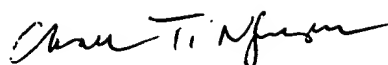
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Joshua Kading  
Examiner  
Art Unit 2661

June 21, 2005



CHAU NGUYEN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600